

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**THOMAS LEE TWILLIE,**

**Plaintiff,**

**vs.**

**BRAD H. FOULK,  
et. al.**

**Defendants**

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**05-352Erie**

**ORDER**

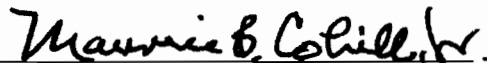
AND NOW, this 4<sup>th</sup> day of March, 2008; IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and recommendation of Magistrate Judge Baxter, dated January 29, 2008, is adopted as the opinion of the court with respect to the Motion for Summary Judgment filed by Defendant Foulk [Doc. #47] and said Motion for Summary Judgment is GRANTED.

It is further HEREBY ORDERED, ADJUDGED, AND DECREED that said report and recommendation is adopted as the opinion of the court with respect to the Motion for Summary Judgment filed by Defendants Franklin and Erie Police Department [Doc. #49] and said Motion for Summary Judgment is GRANTED as to Defendants Franklin and Erie Police Department.

It is further HEREBY ORDERED, ADJUDGED, AND DECREED that said report and recommendation is adopted as the opinion of the court with respect to Plaintiff's claim that Defendant Nelson violated Plaintiff's due process rights by falsely claiming that Plaintiff confessed to committing rape, thus preventing a full range of rape testing from being conducted and denying Plaintiff the opportunity to present competent proof in his defense and that said

Defendant Nelson's Motion for Summary Judgment is GRANTED [Doc. #49] ONLY with respect to this claim.

It is further hereby ORDERED, ADJUDGED, AND DECREED that said report and recommendation is rejected with respect to Plaintiff's claim that Defendant Nelson was involved in the destruction of DNA evidence and this matter is recommitted to Magistrate Judge Baxter for further consideration of this claim consistent with the Memorandum Opinion accompanying this Opinion.

  
MAURICE B. COHILL, JR.  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_